

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOMINGO GERMAN MACAVILCA
PARCO,

Petitioner,

v.

NEIL CLARK,

Respondent.

Case No. C06-1346L

ORDER DENYING HABEAS
PETITION AND GRANTING
MOTION TO DISMISS

The Court, having reviewed Mr. Parco's habeas corpus petition (Dkt. #4), respondent's return and motion to dismiss (Dkt. #11), the Report and Recommendation ("R & R") of United States Magistrate Judge Mary Alice Theiler (Dkt. #16), petitioner's opposition to the R & R (Dkt. #17), and the remaining record, finds and orders as follows:

- (1) This Court adopts the R & R with the minor exception that this Court finds that petitioner is presently detained pursuant to section 236(c) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1226, rather than section 236(a).
- (2) Shortly after he was detained, Immigration and Customs Enforcement charged petitioner with an additional ground of inadmissibility on the basis of his conviction of a crime involving moral turpitude under INA § 212(a)(2)(A)(i)(I), 8

1 U.S.C. § 1182, which made him subject to mandatory detention under INA §
2 236(c)(1)(A), 8 U.S.C. § 1226. Accordingly, the Department of Homeland
3 Security redetermined petitioner's custody, setting no bond, and the Immigration
4 Judge affirmed that custody determination during a bond hearing on October 18,
5 2004. Dkt. #13 at pp. R67, R64. This different basis for custody, however, does
6 not affect the outcome that Judge Theiler reaches and that this Court adopts;

7 (3) Petitioner's § 2241 habeas petition, Dkt. #4, is DENIED, and this action is
8 DISMISSED with prejudice; and

9 (4) The Clerk shall send a copy of this Order to petitioner, all counsel of record, and
10 the Honorable Mary Alice Theiler.

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12 DATED this 24th day of May, 2007

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16 Robert S. Lasnik
17 United States District Judge
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